

Faith organizations actors in the legislative process? Abortion laws and the “firm no” in the case of North Macedonia

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von

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In 2013 the North Macedonian legislative assembly voted on a new law abortion law that made abortion lawful only until the 10th week of pregnancy (exceptional cases excluded) and imposed additional measures to make the procedure lengthy and more difficult. In 2019 a new liberal abortion bill was passed. Leaders from faith organizations were prohibited from attending the proceedings before the Parliamentary Committee where the bill was discussed. This event opened a debate on the nature of the secular state and faith organizations as actors in the legislative process.

The curious case of secularism in North Macedonia

With its first constitution after independence from the Yugoslav Federation, Macedonia was established as a secular state. The constitution guarantees equality before the law, freedom of religion and believe and establishes that faith organizations are separated from the state (by enumerating the five largest faith organizations with an open-end formulation). Institutional separation is established however, no additional specifying articles are included. Therefore, what the principle “allows or prohibits” is a matter of interpretation. In its 28 years of existence the principle of secularism as a constitutional postulate has not yet emerged as a comprehensive legal principle capable of producing foreseeable outcomes. As a

result, even though one can succeed in placing the model of secularism in a certain model defined by authors in academia, Macedonian societal and political reality shifts the nature of interpretation of the principle very loosely and recurrently. This has produced two outcomes. First, the frame of interpretation of the principle has been shifting according to the ideological understanding of the governing party in power. In the [first handbook of freedom of religion in belief in Macedonia](#) it's noted that right wing parties always will lean on interpreting the principle more loosely and left wing parties more strictly. Second, it has produced different outcomes in different spheres. For example, it has not produced a rationale and therefore a requirement of a naked public sphere but, it has excluded the possibility of religious education in the public schools by interpretation of the Constitutional Court.

The abortion law of 2013

In 2013 the North Macedonia legislative assembly voted on an [abortion law](#) proposed by MP'S from the governing right demo-Christian party. The law made abortion lawful only until the 10th week of pregnancy (exceptional cases excluded) and imposed additional measures to make the procedure lengthy and more difficult (forced women to seek counseling, to obtain an approval from their partner, obliged them to listen to the heartbeat of the baby and prohibited abortion in the time period of one year after the last abortion etc.). It was voted into law in twenty days time through an accelerated procedure due to the false pretense that it is not lengthy nor complicated, with overwhelming support from faith leaders and despite being condemned by women's rights NGO's and international organizations.

The new abortion law and the question of faith organizations in the legislative process

As an outcome of the above-mentioned ambiguity in interpretation, a discussion was raised just a few months ago about the bounds of secularism i.e what it "allows or prohibits." This March MP'S from the new social-democratic government proposed [a new liberal abortion bill](#). As part of the procedure, the bill was discussed in the Parliamentary Committee of Health. According to the [rulebook of parliamentary procedure](#) the Committee can invite professionals, public representatives, syndicates and other organizations and associations to attend the public discussions in Parliamentary Committees. Their role is to give input into the topic covered by the law. Given that the law impacted women health and rights, numerous doctors and representatives from NGOs working on these issues were invited to participate in the committee debate.

Leaders from faith organizations, opposing the bill, were not invited and therefore not allowed to attend the discussion. Parliamentarians from the governing coalition grounded such action on [two justifications](#). The First one was procedural, – no official invitation. The other one was substantive – the principle of secularism prohibits leaders of faith organizations to participate in the proceedings. The first argument is undisputed. No invitation means no attendance. But the question is: should they have been invited in the first place?

Considering the above stated brief analyses of the constitutional framework, the only certainty the constitutional text offers is that of the institutional separation of faith institutions and the state. Therefore, the substantive argument can be interpreted as grounded in the constitutional text in conjunction with the rules of parliamentary procedure. Parliamentary bodies can invite representatives it considers their professional input necessary. Accordingly, it can be claimed that since faith organizations cannot give professional input on the matter, they cannot be involved in the legislative procedure of enactment of neutral secular legislation. If this interpretation is accepted, the situation might only be different if there is a bill in front of a Committee covering a topic that affects the functioning of faith institutions. The question now is should we expected this practice of interpretation of the principle of secularism to pass the test of time? Probably not. As the principle is a hostage of political will, its ambiguity in interpretation in the North Macedonian reality would “allow” upon political will representatives of faith organizations to be deemed necessary in debates in the legislative process in the future, as they have been before.

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